

The 6th March, 1986

No. 9/9/86-6Lab/2078.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal Faridabad in respect of the dispute between the workman and the management of M/s Vardhman Spinning and General Mill Ltd., (Rolling Mill Division) Plot No. 264, Sector 24, Faridabad.

BEFORE SHRI R. N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA
FARIDABAD

Reference No. 365 of 1983, 378 of 1983 and 383 of 1983

between

SHRI BASANT, RAJPATI AND SHRI SHIV NATH WORKMEN AND THE MANAGEMENT OF M/S VARDHMAN SPINNING AND GENERAL MILL LTD. (ROLLING MILL DIVISION) PLOT No. 264-Sector 24, Faridabad.

Present :

Shri Darshan Singh for the workmen.

Shri H.R. Dua for the Management.

AWARD

This award would dispose of three consolidated references bearing Nos. 365 of 1983 (Shri Basant *versus* Vardhman Spinning and General Mill Ltd. (Rolling Mill Division) Plot No. 264, Sector 24, Faridabad, 378 of 1983 (Rajpati *versus* M/s. Vardhman Spinning and General Mill Ltd. (Rolling Mill Division) Plot No. 264, Sector-24, Faridabad and 383 of 1983 (Shri Shiv Nath *versus* Vardhman Spinning and General Mill Ltd. (Rolling Mill Division) Plot No. 264, Sector-24, Faridabad). The main proceedings have been held in reference No. 365 of 1983.

2. In exercise of the powers conferred by clause (d) of sub-section (1) of Section-10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between Shri Basant, Rajpati and Shri Shiv Nath Workmen and the Management of M/s. Vardhman Spinning and General Mill Ltd. (Rolling Mill Division) Plot No. 264 Sector 24, Faridabad to this Tribunal for adjudication : -

Whether the termination of service of Shri Basant, Rajpati and Shiv Nath was justified and in order ?
If not to what relief are they entitled ?

3. It may be mentioned that notices were issued to all the parties. The claimants in their claim statements dated 9th July, 1984 alleged that they were working in the respondent factory since 16th June, 1980, but were not allowed to join duty on 1st February, 1983 and that no payment was given to them under the provisions of section 25-F of the Industrial Disputes Act, 1947. It was, therefore, prayed that the claimants be reinstated with full back wages.

4. The Management in their written statements dated 16th October, 1984 pleaded that there was no relationship between the parties. It was further pleaded that M/s. Oswal Steel, Faridabad, had a truck and Shri Kidar Contractor was entrusted the casual job of loading and unloading the said truck, who might have engaged the claimants. It was further pleaded that the question of terminating the services of the claimants did not arise because they never remained in their employment.

5. On the pleadings of the parties, the following issues were framed on 13th December, 1976 :—

(1) Whether there is no relationship of employer and employees between the parties ? OPM

(2) Whether the termination of service of Shri Basant, Rajpati and Shri Shiv Nath was justified and in order ? If not, to what relief are they entitled ?

6. It may be mentioned that the Management has examined one witness and documents Ex. M-1 to M-3 have been tendered into evidence. The claimants examined two witnesses. After going through the entire evidence and hearing the representative of both the parties, my findings on the above issues are as under :—

Issue No. 1 :

7. The Management has examined MW-1 Shri Veer Singh Time Keeper, who stated that he had brought the attendance and payment of wages register. He further stated that he had seen the record and that the name of the claimants were not entered in their register. He also stated that the claimants were the employees of Shri Kidar Nath Contractor and had received their dues,—*vide* documents Ex. M-1 to M-3.

8. Rajpati claimant WW-1 stated that he was employed in the respondent factory on 15th June, 1980 and that his services were terminated on 1st February, 1983 when no notice pay or compensation was given to the claimants. WW-2 Shri Shiv Nath claimant also made a similar statement.

9. A perusal of the above evidence would show that MW-1 Shri Veer Singh, Time Keeper of the respondent factory, has deposed that the claimants were not the employees of the respondent and that their names did not appear in the attendance register as well as payment of wages register. He further stated that the claimants were the employees of Shri Kidar Nath Contractor. The testimony of claimants, on the other hand, is that they were the employees of the respondent factory. No documentary evidence has been produced by the claimants to rebut the evidence led by the respondent to show that they were the employees of the respondent factory. No E.S.I. Card/Provident Fund account has been produced by the claimants to show that they ever remained in the employment of the respondent factory. On the other hand, WW-1 Rajpati claimant stated in cross-examination that Mr. Kuldip Singh used to pay the wages to them, who was an officer in Oswal Steels. He further stated that he used to perform the job of loading and unloading the truck, but did not know if that job was entrusted to Shri Kidar Nath, Contractor. He further stated that he did not know if he was engaged by Shri Kidar Nath, Contractor. Shri Kidar, Contractor, has not been impleaded as respondent in this reference and as such no adverse finding can be given against him in his absence. The testimony led by the respondent, however, shows that the claimants are not the employees of the respondent and no cogent evidence has been led by the claimants to rebut the said testimony. Consequently, it is held that there is no relationship of employer and employees between the parties. The issue is decided accordingly in favour of the Management.

Issue No. 2 :

10. In view of my finding on issue No. 1 above, the question of termination of services of the claimants by the Management does not arise. The claimants are thus not entitled to any relief against the respondent. The award is passed accordingly.

Dated the 25th February, 1986.

R. N. BATRA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

Endorsement No. 129, dated the 25th February, 1986

Forwarded (four copies) to the Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under Section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 8th March, 1986

No. 9/6/86-6Lab/2837.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act 1947 (Central Act XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of M/s. Fyne Packs Private Limited, 188, Industrial Area, Panchkula.

IN THE COURT OF SHRI V. P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 30 of 1984

SHRI BAL RAM, WORKMAN AND THE MANAGEMENT OF THE MESSRS FYNE PACKS
PRIVATE LIMITED, 188, INDUSTRIAL AREA, PANCHKULA.

Present:—

Shri Abhey Singh for workman.
Shri R.L. Chopra for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—vide clause (C) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Shri Balram and Messrs Fyne Packs Private Limited, Panchkula, to this Court. The terms of the reference are as under :—

Whether the termination of services of Shri Balram workman is justified and correct, if not, to what relief is he entitled ?”

Workman Balram alleged that he had been serving the respondent-management as a Die-fitter. His services were terminated on 5th April, 1984 without assigning any reason what so ever. He alleged that termination order regarding his services is unjust and illegal. He also sought reinstatement with full back wages along with continuity of service etc.

Respondent-management contested the dispute and contended that the claim has not been properly signed and verified by the workman. It was also contended that the workers of the factory entered on strike thereafter compromise was arrived at between the parties except a few workers all other workers reported for duty, but Balram did not turn up. The management never terminated services of Balram. It is willing to join him again. It was further contended that in fact workman has himself abandoned job of the respondent out of fear in the police action because during strike he caused injury to an official of management with a stone on that ground criminal case was registered against him. He is wanted in that case.

Shri Balram filed replication through which he controverted the allegations of the management.

On the pleadings of the parties the following issues were framed :

Issues :

- (1) Whether termination of workman dated 5th April, 1984 is accordingly to law if not its effect ? OPM
- (2) Whether statement of claim has been properly signed and verified if so its effect
- (3) Relief.

I have heard Shri Abhey Singh for workman and Shri R.L. Chopra for respondent-management and have perused the evidence available on the file. My issue-wise findings are as under :

Issue No. 1 :

In support of this issue management examined Shri Vikram Singh as MW-1. He stated that Balram workman has absented from the management factory since 14th March, 1984. He further stated that workman of the respondent-management on proceeded strike thereafter the settlement was arrived at between the parties according to that majority of workers reported for duty while Shri Balram is away from joining duty because during that strike he injured official of management with a stone due to that fact a criminal case was registered against him which is still pending. Management is ready to keep the workman in job.

Shri Abhey Singh appeared as AW-1 and Balram examined himself as AW-2 both of them supported claim of the workman. Workman stated that management never issued any termination letter to him but when he reported on duty he was not joined.

In view of the above evidence it is clear that when all the workman of the respondent-management went on strike which ended in a settlement according to that Shri Balram should have joined duty or he should have sought help of Labour Officer or Labour Inspector but no such efforts were made by him in that regard. As per his own admission he was never issued any termination letter of his services and this is also the stand of the management which shows that management never retrenched services of Shri Balram in fact Shri Balram himself has abandoned his job or he has been avoiding to make himself present at the factory premises to avoid arrest from the local Police in a criminal case which is pending against him. So it is obvious that the services of Shri Balram were never terminated the stands on the rolls of the management he can join duty if so it likes but his non-joining of duty shows that he has abandoned his job. So this issue is decided, in favour of management against the workman.

Issue No. 2 :

It has been admitted by Shri Balram workman himself that claim statement has not been signed by him, nor he issued any authority letter in favour of Shri Abhey Singh to appear and conduct his case on his behalf which shows that the claim statement is neither properly signed nor it is verified. So it is no claim statement in the eyes of law. So this issue is decided against the workman, in favour of management.

Issue No. 3 :

For the foregoing reasons on the basis of my issues-wise finding, I think that Shri Balram has failed to establish his termination. It appears that he has abandoned his job himself so he is not entitled to the relief of reinstatement with continuity in service and with full back wages.

I pass award regarding the dispute in hand accordingly

The 27th February, 1986.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.

Endorsement No. 664, dated the 4th March, 1986

Forwarded (Four Copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Dispute Act, 1947.

V. P. CHAUDHARY,
Presiding Officer,
Labour Court, Ambala.